

**REMARKS**

Claims 1-4 are now pending in the application. Claims 1-3 are rejected and Claim 4 is objected to but identified as containing allowable subject matter. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the remarks contained herein.

**REJECTION UNDER 35 U.S.C. § 102**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Lu (U.S. Patent No. 6,189,908). This rejection is respectfully traversed.

The present invention is directed to a bicycle seat assembly. The seat assembly is designed to place the rider in a backwardly-leaning sitting posture so that both the back cushion and the seat member support the user, and so that the user's feet may rest flat on the ground when the user is sitting on the bicycle in a stopped state.

Claim 1, among other things, includes specific limitations with respect to the seat frame and the seat member. In particular, Claim 1 emphasizes that the bicycle seat assembly includes a seat member having, *inter alia*, a recess with a lowest most point on a longitudinal axis that includes a downwardly and forwardly curving portion and an upwardly and forwardly inclining portion. Among other things, the positional relationship of the upwardly and forwardly inclining portion is expressly and specifically defined with respect to the horizontal plane X.

U.S. Patent No. 6,189,908 ("the '908 reference") relates to a shock-absorbing frame structure for a bicycle. The shock-absorbing frame structure includes a front frame unit including a seat tube having a front end and holding a seat back (back

cushion), and a seat pillar disposed near the top end of said seat 2 for holding the stem of a saddle (seat member). The shock-absorbing frame structure further includes a bottom forks unit pivoted to the front frame unit, and shock-absorbing means coupled between the bottom forks unit and the seat tube of the front frame unit.

Although the '908 reference includes a seat member 14 and a back cushion 15 mounted to a bicycle frame, the similarities to the claimed invention end there. There is no teaching in the '908 reference of a structure that would lead to the even distribution of a rider's weight on the seat member 14, nor to change the posture of a user so that he/she is leaning rearwardly when seated on the seat member 14. The drawings of the '908 reference show a structure where the seat member 14 is planar, and there is no rearwardly inclining portion of the seat frame 12 to which the back cushion 15 is connected. The cited reference is reflective of the drawbacks associated with conventional art bicycle assemblies, as explained at page 1, line 22 to page 2, line 3 of the present application.

Neither the description of the '908 reference nor the drawings associated therewith provide support for the present rejection under Section 102, either expressly or inherently. For example, the description does not provide any details regarding the construction or structural aspects of the saddle 14 that satisfy the express limitations of Claim 1. Further, a close examination of the various figures in the '908 reference also suggests that it does not include the structural limitations set forth in claim 1 regarding, in particular, a recess having the described downwardly and forwardly curving portion and upwardly and forwardly inclining portion. In the cited reference, the saddle 14 is

disclosed to independently move with respect to the stem 151 and associated back seat 15. This is directly at odds with the bicycle assembly currently recited in claim 1.

In view of these numerous structural and functional differences between the bicycle assembly shown in the '908 reference, and that cited in Claim 1, Applicant further submits that there would be no motivation to a person skilled in the art to modify the '908 reference to address the problems overcome by the present invention. First, the saddle 14 and the seat described in independent claim 1 are both functionally and structurally distinct for at least the reasons as set forth above. Further, there is no relationship, either structural or functional, between the back supporting portion and the saddle 14 as described in the '908 reference. Thus, the '908 reference would be insufficient to base a *prima facie* case of obviousness. Not even improper hindsight reconstruction would cure the numerous structural and functional deficiencies in the '908 reference to draw a parallel between the two.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 2-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu (U.S. Patent No. 6,189,908). This rejection is respectfully traversed.

It is the Examiner's position that Lu discloses the claimed invention except for the acute angle to be between 12 to 18 degrees and the obtuse angle to be between 102 to 108 degrees. Further, the Examiner concludes it would have been obvious to one having ordinary skill in the art at the time the invention was made to design the seat assembly wherein the acute angle is between 12 to 18 degrees and the obtuse angle is between 102 to 108 degrees, since it has been held that where the general conditions

of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art citing *In re Aller*, 105 U.S.P.Q. 233 (CCPA 1955).

First, as explained above, the '908 reference fails to teach several functional and structural aspects of the bicycle assembly recited in claim 1. To extent that those structural and functional distinctions would be incorporated into dependent Claims 2 and 3, Applicant submits that the '908 reference may not be properly used to create a *prima facie* case of obviousness under Section 103(a).

Additionally, Applicant submits that the Examiner's reliance on *In re Aller*, 105 U.S.P.Q. 233 (CCPA 1955), is misplaced. In *Aller*, the U.S. Court of Customs and Patent Appeals considered whether a change in temperature, or in concentration, or in both, would be an unpatentable modification where the process of the Applicant was **identical** with that of the prior art, except that Applicant's claims specified lower temperatures and a higher sulfuric acid concentration be compared to that shown in the reference. These facts are distinguishable from the rejection put forth by the Examiner in the present application. Specifically, the cited reference does not, for example, disclose any teaching which would suggest the angular relationships taught and recited in the rejected claims. In fact, the '908 reference is noticeably silent with regard to the angular relationship of the saddle or the back support. In contrast with *Aller*, the various parameters of the recited ranges are not addressed in the '908 reference. Simply, there is no teaching that would suggest any ranges of movement that would encompass those recited in dependent Claims 2 and 3.

As a result, it is submitted that the Examiner has failed to set forth a *prima facie* case of obviousness with respect to Claims 2 and 3.

**ALLOWABLE SUBJECT MATTER**

The Examiner states that claim 4 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, claim 4 should now be in condition for allowance.

**CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-4 in connection with the present application is earnestly solicited.


Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

Dated: 2/3/05

By:   
Terry L. Clark, Reg. No. 32,644  
HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

TLC/dab